MARRIAGE

—WITH A—

DECEASED WIFE'S SISTER.

A Bible Argument, with Facts long Obscured.

BY A CLERGYMAN.

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INTRODUCTORY NOTE.

The following article has been suggested by a debate which took place in the recent Synod of the Toronto Diocese, and by a correspondence which has since been published in the *Church Herald*: The debate in question was provoked by a motion of the Rev. Canon Beaven, seconded by the Rev. Provost of Trinity College, in condemnation of marriage within the "prohibited degrees" The motion was carried in the Synod by a large majority. In the course of the debate an allusion was made to the Rev. Mr. Punshon, who had contracted one of the marriages in question. Such an allusion had been better avoided; but the Synod was in no way implicated by the indiscretion of one of its members. The Lay-Secretary of the Synod, however, undertook on his own account to write a sort of exculpatory letter to Mr. Punshon. We may fairly call in question the propriety of such an act. It was—to speak mildly—little better than an officious and most unnecessary proceeding. As a matter of course, Mr. Punshon was delighted with the explanation offered; and in reply favoured his friend, J. G. Hodgins, L.L.D., with a laboured letter in discussion of the question involved, which though ostensibly marked "private," was intended for publication, and accordingly forthwith found its way into the pages of our contemporary the *Church Herald*. It has been copied into the pages of some of the leading newspapers of the Dominion, and has thus obtained a circulation vastly disproportioned to its merits. A more fallacious and pernicious article, on a great subject, we could hardly conceive. It is utterly unworthy of Mr. Punshon's reputation as a critic and a divine. Still with the authority of his name the letter has been widely circulated, and is calculated to do much mischief. This has rendered necessary a refutation of the errors which lie at the basis of Mr. Punshon's letter. In the following article an effectual antidote is furnished to the poison so insidiously disseminated. The subject has been discussed apart from personal feeling,—simply and purely as a biblical question; and we hope those papers and periodicals which have given publicity to Mr. Punshon's argument will now publish a reply which has been written in a spirit of christian courtesy, and with the logical acuonen and learned research of a scholar and theologian. It is not unlikely that the subject will have to undergo further discussion in both Great Britain and the Colonies, before it is disposed of. In such a contingency it will be found that the *Churchman's Magazine* will give "no uncertain sound."

THE EDITOR.

MARRIAGE WITH A DECEASED WIFE'S SISTER.

A BIBLE ARGUMENT, WITH IMPORTANT FACTS LONG OBSCURED.

BY A CLERGYMAN.

It is the fate of truth as well as of morality to be opposed in an evil world, and this not altogether without advantage to both. For as purity becomes purer and more beautiful through conflict, so it is also with truth. What St. Paul says of persons is equally applicable to doctrines: "There must be also heresies amongst you, that *they* which are approved may be made manifest among you." (1 Cor. xi-19). So must there be erroneous teachings, that God's truth may be made manifest—clearer to the intellectual and spiritual apprehension, and more illustrious and attractive too. Such indeed has been the history of many essential articles of the Christian creed.

It is only of late years, however, that the present subject has been brought into the region of controversy. Few points of doctrine or morality have enjoyed such undisturbed repose for eighteen centuries; and now that the enemy would unsettle the rule in which Christians have hitherto so calmy acquiesced, we may be assured that the Great Head of the Church will overrule the attempt for good, will bring out into stronger relief the antagonism of His holy truth to the sensuality of the world, and will give new point and force to the Church's testimony. Happily, therefore, the movement in the mother country, as is well known, has been the work of a very small but very wealthy clique, who have literally lavished gold in furtherance of their selfish object. But, thank God, they meet with a very determined front. The great bulk of English Churchmen are against any alteration of what is and has been the law of the Church and the law of the land, and which forbids a man to marry his deceased wife's sister. The Presbyterian bodies are all pledged against it. The Roman Catholics are immoveably opposed to it; and only a certain portion of English Nonconformists, with some loose and worldly-minded Churchmen, are to be found to give it any shadow of religious support.

Some confident boasting is occasionally heard of the favour accorded to the proposed change by the popular voice, as expressed in the Imperial Legislature. The following useful history of the Marriage Bill is given by the *Saturday Review*:

"The measure first reached the Lords in 1850, when it was rejected without a division. In 1851 it was introduced in the Lords and lost by 50 to 16. In 1856 the Peers rejected it by 43 to 24. In 1858 it was refused by the same House by a majority of 46 to 22, and again in 1859 by 49 to 39. In 1870 the Lords were taken by surprise, and it was thrown out by 77 to 73. And this year it was rejected by a majority of 26, so constituted that if every one of the Bishops who voted against the Bill had

given it their support they could not have saved it. This alone must show the irrational nature of the present agitation. Nor has the history of the measure in the House of Commons been more intelligently significant of a mature opinion in its favour. It was first proposed in 1842, but rejected by 123 to 100. In 1849 it was read a second time by 177 to 143, but lost in Committee. In 1850 it was again read a second time by 182 to 130. In 1855, the majority on the second readind was 164 to 157. In 1858, the majority on the second reading was 176 to 134. In 1859, the numbers were 135 to 77. In 1861 the second reading was lost by 177 to 172. In 1862 it passed by 144 to 133, but was rejected on the motion that the Speaker do leave the chair by 148 to 116. In 1866 it was rejected by 174 to 154. In 1869 it passed the second reading by 243 to 144. but was afterwards lost in Committee. In 1870 it passed into Committee by 184 io 114. This year the majority in the Commons was 125 to 84, or only 41, and on the proposal to abolish *the retrospective clause, for which the promoters principally care*, the majority was only 35. It is therefore without the slightest foundation in fact that the advocates of the measure speak of its rejection by the Lords as "in the face of increasing majorities in the Commons." "

The first sounds of the conflict at Home, whose history is thus summarized, have at length reached us. The notes of opposition have been heard in our Synod; the glove has been thrown down in even a Church Nowspaper, which has strangely admitted a series of arguments against the Church's law by the principle breaker of that law in this country—no less a person than the President of the Wesleyan Conference! while not a word of reply has appeared since. The general contempt for religious as opposed to secular law which characterizes the looseness of Colonial populations, and our familiarity with the tremendous laxness of the Marriage Laws of the United States, must, in the nature of things, precipitate a struggle between the Church and the World at no distant day: while it is to be deeply deplored that the law of Ontario appears so very dubious as to invite wilful persons to contract alliances which not even it, any more than the Divine Law, approves. The case seems to be this, according to the fullest judgment of our Courts: The marriage of a man with a deceased wife's sister stands good, and the issue legitimate, if no objecton is made *ab extra*, by a third party, during their life-time: otherwise, that is, in case of objection, the union is invalid, the issue illegitimate. Of course, too, the will of either of the parties dissolves the union.* And we are told that this is a marriage? and that the law of the Church is against the law of the land! Surely it is utterly ridiculous to call that union a *marriage*, either from a legal or a Christian point of view, which depends on the

*Vid. the decision of V.C.Esten, Chanc'y Reports: (Grant's) Vol. IX.p. 305. The Law, as I have since observed, is not dubious, and gives very little encouragement to these incestuous unions. The reason why a marriage "void," "unlawful," and "voidable" at the time of its contracting and during the lives of both parties to it, could not be "avoided" after the death of either, is thus stated by the V.C: —"After the death of either of the parties the temporal courts, which have no jurisdiction themselves, and must regard every marriage *de facto*, as good until it is declared void by the ecclesiastical courts, will not permit them to declare the marriage void after the death of one of the parties, when their sentence can have no effect on the marriage itself, it being already dissolved by death, and its only effect will be to bastardize the issue. The result is, that after the death of the parties, the marriage is valid and the issue legitimate *de facto*, but not *de jure*." This is said as to England and Scotland; but as to the case before the V. C., he goes on to say, "It must be recognized as a marriage *de facto*, by the temporal courts until annulled by sentence of the Ecclesiastical courts, which could only be done during the life-time of both parties to it. But this is clearly the law of this province. It cannot be doubted that the marriage in question in this case was unlawful and void at the time of its celebration, and could have been annulled by the sentence of the Ecclesiastical court at any time during the life-time of both parties. But it is equally clear that, it never having been so annulled, it has become indissoluble, and the children springing from it are to all practical purposes absolutely legitimate."

mere forbearance of non-objectors, or which either of the two parties may dissolve at their own bare will! At the utmost the law simply *connives* at such unions, and it may be too surely conjectured that that connivance will be largely abused.

These several points being taken into account, we have abundant cause for, (perhaps not alarm, but certainly for), being on our guard; for furbishing our weapons; for awakening Clergy and Laity to the importance of the crisis, and seeing that all are alike furnished with the knowledge of those grounds on which we must defend one of the most important citadels of Christian morality.

The divine authority of the One Law-giver is that to which Christians must mainly defer; while we thankfully feel that there are many subsidiary considerations of the very greatest weight, and which might well suffice to restrain us from the exercise of liberty in the present case, even supposing such liberty were distinctly not against the Divine Law. All these points, doubtless, will in due course receive ample recognition, as the subject is more and more discussed; but the Divine Law, as ever understood in the Church, must always hold the principal place, and be the sheet anchor of all our arguments. I think, therefore, that it is but logical and reverent to address myself to this part of the subject first, endeavouring, as shall be my aim, to present the Bible argument fairly and without disguise; *and more particularly as some very important illustrations lately fell in my way, which I am quite sure are unknown to the bulk of Bible-readers.*

It is only too possible that those to whom the subject is unfamiliar may find some little difficulty in following the argument, in spite of my efforts to be plain; but the very fact of wide discussion shows that there must be some difficulty to afford to scope for it. Readers mus not be disconcerted at this: the rule stands for soul as well as body, "in the sweat of thy face shall thou eat bread."

I. First, then, I shall clear away an objection which is made the most of at the very threshold. It is generally assumed that Levit. XVIII. 18 specially refers to the marriages in question: "Neither shall thou take a wife to her sister, (*margin*, one wife to another), to vex her, to uncover her nakedness, beside the other in her lifetime." (I add a literal rendering of the Hebrew, as it will be useful for reference: "*And a woman to her sister thou shall not take, to rival, to uncover her nakedness, besides her, in her life.*")

1. It is argued that as the marriage is forbidden with a special restriction, "*in her life*," therefore it is lawful when that restriction is removed, nay, that it is almost suggested.

To this it may well be replied (1) that such a mode of reasoning is in general highly dangerous and uncertain—to conclude that things are sanctioned or approved by law, if they are only not expressly forbidden! For example, I say to a servant whom I have detected in a theft, "As

long as you are in my employ never steal again." May he justly conclude that when *not* in my employ he has my full approbation for theft? So it by no means follows that, because a man *may not* take his wife's sister in marriage while his wife is alive, he may marry his wife's sister when his wife is dead. Hooker exhibits his "judiciousness" in the observation—"It is a mistake to suppose that a thing *denied* with special circumstance doth import an *opposite* affirmation when once that circumstance is expired." (Bk. v, c. xiv). "The manner of Scripture produceth no such inference as that." (Pearson, Art. iii). (2.) There is nothing to *prove* that the restriction, "*her life*," belongs to the wife—see the literal rendering above. It may and, I hope it will yet appear, does apply to the sister—and it is to be regarded not as a limitation, but as an extension of the prohibition to the whole life, a prohibition thus more stringent than even the nuptial bond, for the latter might be terminated by divorce, while the prohibition has no limit. Besides, there is nothing in Scripture to limit the prohibition of marrying a wife's sister to the period of the wife's life-time, any more than there is to limit the prohibition of marrying the wife's daughter or grand daughter. When Hannah says she will give her expected son unto the Lord "all the days of his life," she might just as well be supposed to intend keeping him for herself after his death, as the restriction in Leviticus be explained away as merely temporary—contingent on the life of the first wife. But what shall we think of those who in so serious a matter trust so uncertain an argument—for "uncertain" is the very least we can say of it; and who oppose that uncertainty to the unanimous voice of eighteen centuries of Christianity!

But whether the argument thus far considered is right or wrong, good or bad, it cannot stand, for it is based on a totally wrong translation of the Hebrew text, and an improper division of the context.

2. Mr. Punshon says. "With Dr. McCaul I believe that all criticism must bow before the plain straightforward meaning of the words in Lev. XVIII: 18!" Very well; let us see what that meaning is, and whether Mr. Punshon has bowed before it. It is well known that the words "*a woman to her sister*" are a Hebrew idiom, an expression peculiar to the language. The corresponding phrase, "*a man to his brother*," occurs twenty-five times in the Hebrew Scriptures, and is translated generally as in the following examples, by the Italic words:

Gen. 37: 19, "And they said *one to another*."
Ex. 25: 20, And the faces of the cherubim shall look *one to another*."
Ex. 37: 9, "The Cherubin stood with their faces *one to another*."
Jer. 13: 14, "And I will dash them *one against another*."
Jer. 25: 26, And all the Kings of the North *one with another*."
Ezek. 24: 23, "And mourn *one towards another*."

Of the nineteen other examples, some are slightly varied in form. I shall now give *all* the instances of the expression in dispute—"*a woman to her sister*."

Ex. 26 : 3, "The five curtains shall be coupled together *one to another;* and other five curtains shall be coupled *one to another.*
Ex. 26 : 5, "That the loops may take hold *one of another.*"
Ex. 26 : 6, "And couple the curtains *together.*"
Ex. 26 ; 17, "Two tenons shall be set *one against another.*"
Ez. 1 : 9 and 11, "Their wings were joined *one to another.*"
Ez. 1 : 23, "And their wings were straight *one towards another.*"
Ez. 3 : 10, "The wings of the living creatures touched *one another.*"
Lev. 18 : 18. The case in dispute.

Here we have all the instances of the phrase in the Hebrew Bible ; and it is observable that our translators have uniformly rendered it, making no marginal gloss, except in Leviticus,—so certain is the force of the idiom. I ask, then,

Can any one not swayed by prejudice believe that a phrase used *thirty-four* times in the Hebrew Bible in the same identical sense, is used the *thirty-fifth* time in a totally different sense ? For my part, if I could see no meaning in the last case, I should feel bound to retain in the rendering of all the other cases, leaving the meaning for future illumination. Assuredly we must adhere to the fixed meaning of Bible phrases, unless we would make the Scripture what an irreverent Cardinal called it, "a nose of wax."

Now before I come to the true exposition of this passage, as I wish to be thorough as far as I go, I shall notice the objection which Mr. Punshon and others make to the marginal rendering, "one wife to the other"—though that is not strictly correct. It would only then be (they say) "a prohibition of bigamy." Mr. Punshon goes on to say, "I submit this cannot be, because we know for a fact that bigamy was practised to a much later period by those who were bound by these Levitical laws, and also because in Deut. xxi 15, part of the second giving of the law, and therefore later, bigamy is recognised as existing, and for a certain contingency growing out of it, legislated for."

It would be sufficient to answer, That not all bigamy or polygamy would not be necessarily hereby prohibited; *e.g.* such as Abraham's taking Hagar with Sarah's consent, or Jacob's taking Rachel's and Leah's handmaids at their desire ; as this would not be within the terms of the prohibition, "to rival" them ; though such polygamy might be forbidden on other grounds. Surely here again we may observe that a special prohibition is a very unfit ground for a general course of action in a precisely opposite direction.

3. But the truth is that *both* of the preceding explanations are wrong ; the text in dispute refers neither to polygamy nor to a deceased wife's sister! It has a reference which removes all the difficulties which would largely cluster about both these views, and it at the same time allows the Hebrew idiom its full, proper and unrestricted force of "*one to another.*" The great objection to this rendering in the present instance, in spite of the overwhelming force of idiomatic use, is—that

the phrase has a *reciprocal import*; that is, a number of things are said to be so and so *one to another*; that there must be a plural antecedent; while in the present case there is no antecedent, nothing and nobody are mentioned which can have any relation *one to another*.

The conditions are all fulfilled, the difficulties of grammar and morality are at once got rid of, by *reading verses* 17 *and* 18 *together*, as they should be: "Thou shalt not uncover the nakedness of a woman and her daughter, neither shalt thou take her son's daughter, or her daughter's daughter, to uncover her nakedness: it is wickedness: and one with the other thou shalt not take, to rival, to uncover her nakedness besides her as long as she liveth."

Observe, the conjunction in the Hebrew is copulative, not disjunctive; and it is not placed in connexion with the negative, as in the E. V., but in the order here given.

Now it becomes quite clear that the restriction *in her life* is not a contingency any how removeable, but belongs equally to the whole life of both mother and daughter. It matters not that the daughter and grand-daughter are no blood relations of the man—enough that they are "her near kinswomen." What now becomes of the implied liberty on the removal of the restriction, "as long as she liveth?" Does the point need to be pressed? Do we not now see that all things are not to be concluded as sanctioned by law, which are only not expressly forbidden by it? Does Mr. Punshon "bow" to so clear a meaning?

The only wonder is that verses 17 and 18 should have been so generally read apart—the occasion of so much misapprehension. But, as the Rev. W. B. Galloway, in the pamphlet (Rivingtons, 1870.) to which I am indebted for this, says, "That it has been so construed in ancient times is manifest from the following passage from Philo Judæus. 'For the intermarriages of strangers produce new relationships not short of those which are by blood; for which reason he hath also debarred many other connexions, enjoining a man not to contract marriage with a grand-daughter-in-law, the wife (widow) of a daughter's son or of a son's son; nor with a wife's aunt, whether on her father's or on her mother's side; nor with one who has been the wife of an uncle, or of a son, or of brother, [observe, no allusion to any imagined exception]: *nor again to wed with a step-daughter, whether widow or virgin, in addition to his wife if she be living, but not even after her death*..... Again: he does not permit the same man to marry two sisters, either at the same time or at different times. For while she who cohabited with him still lives, even if divorced, whether she continues single, as in widowhood, or even have been married to another, he deemed it unholy for the sister to come into the lot of her who had been unfortunate." (De Specialibus Legibus. Opp. Ed. Mangey, vol. ii p. 303.) Mr. Galloway justly says, "There is no other part of Scripture, and no other mode of reading this, which could have [illegible]. It is true that Philo seems also

(from the latter part of the quotation just given) to have had his eye on the Septuagint rendering which agrees with the English.

The celebrated Rabbi Maimonides took the same view, as will be seen later on. And thus, I hope, is one obstacle to a right understanding of the Scripture on this point wholly swept away.

II. I come now to what is here called "*Parity of Reasoning:*" "a wonderful phrase," says Mr. Punshon—yes, wonderfully inconvenient for him. The phrase is used by excellent scholars on both sides, who, I dare say, think it very good English. The *meaning*, however, is all we are concerned with. It is an argument from the *parallelism of* the cases ruled by the Law of Marriage, and must come home to men's reason and consciences as "wonderfully" just and weighty. Here it is: In Lev. xviii. 6 the general principle is laid down, "None of you shall approach to any that is near of kin to him, [*Marg.* Heb. "remainder of flesh"], to uncover their nakedness." The expression here used, "near of kin" or "remainder of flesh," includes without any controversy whatever two classes of relations—those of consanguinity, or blood relations; and those of affinity, or relations by marriage. Of the former there is no dispute; of the latter, take the example referred to before in ver. 17, where a man is forbidden to marry the *daughter of his wife*, or the *daughter of her son*, or of *her daughter*. They are no blood relations to him; why then are they forbidden? "For they are her near kinswomen (or flesh): it is wickedness." And this is the *same* expression and the same reason as where blood relations are spoken of; e. g. ver. 12, "Thou shalt not uncover the nakedness of thy *father's sister*: she is thy father's near kinswoman, (orflesh)." Quite clear then it is that there may be and are relationships by affinity which preclude marriage according to God's Law, but we most unreasonably expect to find in the Scripture detailed lists of prohibited degrees. It is enough to find great *principles* set down with the utmost perspicuity, and numerous examples enabling us to apply those principles with certainty. Here is such a list.

The Word of God forbids a man to marry "any that is *near of kin to him*;" and mentions, in the following order, thirteen instances of persons directly or indirectly near of kin, viz:—

His Mother,	his own Grand-daughter,	his own *Daughter-in-Law or Son's Wife*,
his *Stepmother or Father's Wife*,	his Father's Sister,	his *Sister-in-Law or Brother's Wife*,
his Sister,	his Mother's Sister,	his *Wife's Mother*,
his Half-Sister,	his *Aunt or Father's Brother's Wife*,	his *Wife's Daughter*,
		his *Wife's Grand-daughter*.

Six of these women are blood-relations; seven (printed in Italics) are relations by marriage only. Yet the whole follow the words "near of kin" without any distinction: except that after the charge not to marry his wife's relations there is added, "for they are her near kinswomen; it is wickedness." This last word is the translation of the

Hebrew word used for the vilest kind of *lewdness*, in Judges xx. 6, Ezek. xvi. 43, and xxii. 11.

We are now in a condition to apply the "parity of reason" argument: but, "Hold!" say some eager partisans; "what right have you to make any inferences at all in this matter? why should you go beyond the express letter of the enactment?" First, because it is only *common sense* to do so; and secondly because we *must* do it, if we would not throw open the gates of incest. If we may not go by "parity of reasoning," that is, regard no moral parallelism, make no inferences, but be bound only by the bare *letter*; than a man marry his own *daughter* or *sister!* for they are not expressly prohibited.

To apply this to the case in hand: Lev. xviii. 16. "Thou shalt not uncover the nakedness of *thy brother's wife*; it is thy brother's nakedness"—repeated in chap. xx. 21 with a special curse. Here a woman is forbidden to marry her *deceased husband's brother*; and the strict parallel is that a man is forbidden to marry his *deceased wife's sister*. To see anything "wonderful" in this except its entire fairness argues a degree of moral obliquity which we may well shudder at. Where is there an unperverted mind which does not feel that the moral relation of two sisters successively to one or the same man as husband, is strictly parallel to that of two brothers to one and the same woman as wife? And *even if* the Law, in spite of this moral identity, did not entirely recognize the practical equality of obligation in both cases, there is no reason why Christians should not do it. The Law aimed at elevating the condition of woman *towards* an equality of moral rights, but, as we know, this was imperfectly accomplished. While slavery and polygamy lasted, the moral rights and, consequently, the moral responsibilities of woman could not be equal. In Christ there is nether bond nor free, neither male nor female. The obligations of holiness are equal, and the propinquity which excludes two brothers from marrying in succession the same woman, must equally exclude two sisters from marrying in succession the same man." (Galloway).

But, it is again objected, the *death* of the person through whose marriage the nearness of kin began, *alters that nearness*. The Rev. W. Abner Brown, no "High Church ascetic," but a friend and biographer of the well-known C. Simeon, answers well: "A step-son may not marry his father's widow; and yet there is no kin between them, except through the woman's former marriage with his father, who is now dead. The death of the person through whose marriage the bond of kindred began, must either dissolve that bond in all cases, or it dissolves it in none. It dissolves it in none." (Quoted by Bp. Wordsworth in Com. Levit.) The ground of the prohibition is the nearness of his step-mother to his father—becoming "one flesh" with him; and as soon as this became a fact, the propinquity was complete. How then could the father's death undo a pre-existent fact, and thereby cause the relation between step-mother and step-son to cease? "Does the maxim admit of controversy that any person with whom, at *any time*, it would have been incest to cohabit, will forever remain forbidden? The question seems unequivocally determined by the principle of affinity arising out of the nature of the marriage union." (Professor Bush). Ah, but this places us in a "dilemma," says Mr. Punshon. Many dilemmas are wonderfully spectral, and frighten more a good deal than they hurt. Levit. xx. 21 threatens "childlessness" for the infraction of this prohibition, and he knows cases where "no such penalty followed. Either then the Scrip-

ture is broken, and its threatenings a dead letter, or, the prohibition does not apply." In a whole lifetime it could hardly fall to one's lot to find any perversion of Scripture so ignorant, so gross, so unspiritual. What! a *Christian* tell us that because God's Law is no longer enforced by temporal penalties, its moral obligation ceases! Is the penalty of "burning with fire" now inflicted for the union forbidden a little before, ver. 14? and has moral obligation therefore lapsed! One cannot but wonder at the blindness and the want of sensibility which has permitted Mr. Punshon to quote in his own defence Lev. xx. 21, of all possible arguments!

But there is another "dilemma"—a very harmless, though a *very* ugly goblin. "If my wife's sister is still [after the wife's decease] my wife's sister, then logically my wife is still my wife, and so far from restricting my liberty to marry to her own relations, her death—as it does not alter my relations to her—[his own representation]—does not leave me at liberty to marry at all." How very "logical" indeed, where the word "wife" is plainly "equivocal"—made to represent a past and a present relation; an actual relation in the past, a non-existing one in the present. Nor are we responsible for such logic, as doubtless he would object; but it arises wholly from his mistaking or evading the point at issue,—and that is, *not the relation which a man now bears to one who was his wife, but the relation which he now bears to her surviving sister.* Once, that relation was undoubted: to cohabit with her would not have been simply adultery, but incest. We have before observed, that nothing can abolish a pre-existing fact—and therefore such cohabitation would still be incest. Though "freed from the *law* of her husband," as Mr. Punshon emphasises it; it does not follow that a widow is free from all law as to his kindred, as he argues, or we might have such mixtures as would rival the incests of ancient Persia. Because, forsooth, I may not marry my sister-in-law, must I cry out with the logic of a petulant will, You insist that she who was once my wife is still my wife in the spirit world! Surely Mr. Punshon, is here guilty of as "ridiculous a stupidity as to dream of midwifery in the grave," as Bishop Pearson phrases it. This is a Sadducean error. Death "departs" a man and his wife—makes a complete separation; but it does not abolish the relations which that marriage effected between the surviving husband or wife and their respective families, till he comes and touches with his icy fingers each separate one.

We will just put Mr. Punshon's objection into the mouth of the parallel relation—a deceased brother's wife. She objects to the prohibition which would bar her marriage to the surviving brother, and says, in words which have *exactly* the same value as in Mr. Punshon's argument:—"If my husband's brother is still my husband's brother, then logically my husband is still my husband, and so far from restricting my liberty to marry to his own relations, his death—as it does not alter my relations to him—does not leave me at liberty to marry at all." Now, if this argument have the effect Mr. Punshon wishes, it justifies a union *expressly* forbidden, Lev. XVIII. 16! But this is no more than the gentleman's whole letter aims at.

Let the public at large notice what the Rev. W. Morley Punshon, President of the Wesleyan Conference, distinctly says: It appears to me, and has always appeared to me that the doctrine of this passage (Rom. VI: 2) is that the relationship of *affinity*, created by law, ceases when the law

ceases." An astounding, a tremendous conclusion! *Observe*, so a man may marry his father's wife, his son's wife, his brother's wife, his wife's mother, his wife's daughter, his wife's grand-daughter—all *expressly* fordidden in Scripture! Thus he interprets St. Paul so as to make him directly contradict himself: see I Cor. V. 1. It would be treason to religion, and a wrong every Christian who venerates the Bible as God's sacred and authoritative Word, not to cry out with loudest voice—"Behold a blind guide, and beware of him!" Let there be no misconception, no shirking—here is his statement: "*The relationship of affinity ceases.*" Who is prepared to accept it and all its consequences? This is what self-will is driven to, when it thinks itself wiser than the whole Church of God!

Mr P. wishes his friend Dr. Hodgins, to "affirm (privately) on his behalf that he tries to love Jesus"; and Dr. Hodgins, like a zealous friend, does it publicly and at once. The christian public must be allowed to doubt the love that asserts itself in such new ways—Dr. Hodgins' assurances, and, a still more unlikely method, breaking the Laws of the Lord Jesus! whose Spirit was in the Old Testament writers. "If a man love Me he will keep my words", says our Lord. Now, supposing Mr. P. "knows and is persuaded by the Lord Jesus," [N. B. St. Paul does not venture on the familiarity "Jesus"], that this marriage in question is "not unclean of itself", does that justify him in evading the laws of his native land, in presuming on the laws of this land, and outraging the moral sense of nearly all religious communities, in order to contract it? "If thy brother be grieved with thy *marriage*, now walkest thou not charitably. Destroy not him with thy *marriage* for whom Christ died"—as he now runs the risk of doing manifoldly, by encouraging weak consciences to act against external laws and inward convictions in compliance with unregulated desire, under the patronage of a distinguished religious leader. A religious leader might well pause in the exercise of what he thought a lawful liberty, at the Apostle's words:" Take heed lest by any means this liberty of yours become a stumbling block to them that are weak." "When ye sin so against the brethren, and wound their weak conscience, ye sin against Christ." I fear Dr. Hodgins's "affirmations" will hardly outweigh these last considerations in the public mind.

III. There is one more argument which is relied on to weaken the force of all that has been said. It is objected that in spite of the plain prohibition in Lev. xviii. 16. of marriage with a deceased brother's wife, (and by "parity of reasoning," as we hold, with a deceased wife's sister), yet there can be nothing *intrinsically immoral* in such unions, as in a special case they are even enjoined, Deut. xxv 5-10. The whole force of this objection depends upon the assumption that the brothers are *own* brothers, sons of one father or mother. It is truly surprising how generally this assumption has been allowed. Its force is parried by the maxim that "the exception proves the rule"—that God is the supreme Lawgiver, whom we cannot limit. Weighty and true indeed; but the assumption itself is to be denied: and thus what seemed an exception, weakening the moral force of the general prohibition, turns out to be no exception, but an unmitigated enforcement of that rule, giving it a resistless moral weight. For the knowledge of this fact (I feel bound very clearly and thankfully to say) I am entirely indebted to Mr. Galloway, whose proofs I shall do but little more than arrange in my own words.

The point of the case as put by the Sadducees to our Lord, (Matt

xxii. 24-28), was not that the Seven were all sons of the same parents, but simply that "*Seven had her to wife,*" and that she had a claim to the seven. But the Levirate Law, *i. e.* respecting a husband's brother, no where specifies or contemplates that they must be *own-brothers.* The book of Tobit, though uncanonical, is a fair reflex of Jewish practices and beliefs, and may perhaps have suggested, as it certainly does explain, the case proposed by the Sadducees. Sara, the daughter of Raguel, of the Captivity in Media, had married seven husbands in succession, to whom she bore no children; and she laments to God, "I am the only daughter of my father, *neither hath he any child to be his heir, neither any near kinsman, nor any son of his, alive, to whom I may keep myself for a wife. My seven husbands are already dead; and why should I live!* but if it please Thee not that I should die, command some regard to be had of me, and pity taken of me, that I hear no more reproach." Chap. iii.

It was believed that the full extent of her Levirate claim had been exhausted, and she was unwilling to marry a stranger, thereby carrying the inheritance out of her own family; much less would she marry a heathen, and so pollute her name in the land of her captivity. When *all* the families of *all* her kindred were supposed to have been exhausted, Tobias, a kinsman, arrives from a distant part, and marries her under the Law which gave her a claim on his hand. Now he was but her father's cousin, c. vii. 2, vi. 11, 12; and there is nothing to shew that the seven were more nearly related to one another, than they were to the eighth, Tobias, and he certainly was not own-brother to any of them.

In truth, the idea that the Levirate Law contemplated own-brothers is wholly baseless, and should be unceremoniously abandoned. It *must* be, unless we would contradict an absolute enactment: "Thou shalt not uncover the nakedness of thy brother's wife: it is thy brother's nakedness." Lev. xviii. 16. The very terms of the Law in question may serve to show this: "If brethren dwell together, and one of them die, and have no child, the wife of the dead shall not marry *without unto a stranger:* her *husband's brother* [margin: "next kinsman"—i.e. *brother* opposed to *stranger*, and thus equivalent to "kinsman,"] shall go in unto her, and take her to him to wife, and perform the duty of a husband's brother unto her." Then follows the ceremony of CHALITZAH, by which the inheritance was *transferred,* in case of a man's rejecting the childless widow's claim to him as next kinsman. The shoe was pulled off, for another, as, it were, to step into, as we learn from Ruth iv. 7.

The Levirate Law evidently existed ages before among the nations of Canaan, but, as might be expected from their moral corruption, with no bar on account of any nearness of consanguinity. Gen. xxxviii. 8, 9. The conduct of Judah showed that he more than suspected the unlawfulness of the existing customs, (verses 10, 11, and end of 14). In Moab, as appears from the book of Ruth (i. 11), the same licence existed. Even heathen writers reproached the Asiatics with their dissoluteness: "Such is the whole barbarian race: a father has intercourse with his daughter, a youth with his mother, a maiden with her brother." (Euripides, Androm. 173). The Law of Moses re-established the holy limitations of domestic virtue, but not ignoring the civil customs of the time. The Law of inheritance applied first to the husband's next of kin; but he was not only exempt from taking the widow if she were within the prohibited degrees—he *dared not* take her. Let it be noted

that there is no *case* in all the Scriptures, canonical or uncanonical, which justifies the vulgar meaning of *brother* in the Levirate law, or tolerates any infraction of Lev. xviii. 16. Nay, if the strict meaning of "brother" be insisted on, then it is quite clear that Ruth could not lay claim to Boaz. He was not her husband's own-brother; he was not even her husband's nearest kinsman; but probably claimed because not within the forbidden degrees. The "nearest kinsman" was ready enough to redeem his "brother" Elimelech's parcel of ground, which the widow was about to sell; but when he found that Ruth's hand was to go with it he drew back, on the ground that he should thus "mar his own inheritance." Why? how? would *adding* to his own inheritance mar it, when that addition would wholly pass away from him if he refused Ruth? Nor could any expected second family mar the claims of the first, as they could but claim their ancestral property—being reckoned as Mahlon's children, *i.e.* the first husband's. It could not then be in regard to *property* the inheritance would be marred; and we have no intelligible explanation of it except in the penalty denounced in Lev. xx. 20, 21. for an unlawful marriage, "He shall be childless;" which probably applied to other near unions, as well as with a brother's wife, and which must have been the case here.

The negative testimony of scripture is irresistibly substantiated by the most ancient traditionary law of the Jews—the MISHNA. There is no dispute that the Mishna is the most exact representation of ancient Jewish opinion. In the treatise entitled YEBAMOTH the precept *Yeboom*, or obligation to marry the widow of a childless deceased brother, and the ceremony of *Chalitzah* in the case of him who refuses, are discussed, with indeed the various cases arising out of Deut. xxv. 5-10. Throughout the treatise the general names "sister-in-law," "brother-in-law," are applied to the parties whatever may be the degrees of their relation. The word "brother" is used with the same latitude. The name "rivals" is applied to the several wives of one man. This is to be noticed in order to avoid confusion.

"In their introduction to this book of the Mishna, in the English translation executed by them, Mr. De Sola and Mr. Raphall (both of them Jews, and following here a prefatory tract of Maimonides their commentator) have remarked that when circumstances exist which would render such marriage unlawful; as, for instance, if the parties were related to each other within the degree of consanguinity prohibited by the Holy Law to intermarry, the precept of zeboom is superseded, and even the ceremony of Chalitzah is unnecessary; and that when the brother-in-law cannot marry the widow on account of near affinity, he may not marry any of the other wives of his deceased brother, who in the technical term of the Mishna are called rivals. (Galloway). Mr. G. gives the words of Maimonides in the Latin translation of Surenhusius, from which it may be seen that he read in connection and verses 17 and 18 of Lev. xviii.*

The most negligent may perceive that the law in Dent. xxv. cannot be absolute—that it must have many exceptions. And the Mishna specifies *fifteen* classes of women, who, in consequence of being within the forbidden degrees, are released, and release their "rivals" from

* Since writing the preceding words I have observed what Allen says in his "Modern Judaism," (p. 417, ed. 1816): By the practice of the modern Synagogue, this part of the law is, *in fact*, entirely abolished: the rabbies oblige their disciples invariably to refuse compliance with the *precept*; and nothing remains of the original institution, except the ceremony of releasing both parties from a connection which is never permitted to be formed."

the obligation of this law altogether. These are: 1 Where the widow of the deceased is the *daughter* of the "brother" [i. e. next kinsman—otherwise a man might marry his own daughter]. 2. When she is his *daughter's daughter*; or 3. his *son's daughter*. 4. Where she is his *step-daughter*; (daughter of the so-called "brother's" wife). 5 and 6. Where she is his wife's *grand-daughter*, whether daughter of her daughter or of her son. 7. Where the widow is *mother-in-law* of the "brother," or nearest kisnman; or 8 and 9. The *mother of his mother-in-law or his father-in-law.* 10. Where she is his *own sister* [which she could not be if deceased husband and he were own brothers]; or 11, his *mother's sister*; or 12, his *wife's sister*. 13. Where she is the *uterine brother*; or 14, of a "brother" who had not been contemporary with him (i. e. who died before the now nearest kinsman was born). [N. B. from case 13 it is quite clear that the law was not supposed to contemplate the marriage of a husband's own brother with his sister-in-law—this being here specially forbidden]. 15. Where she is *daughter-in-law* (i. e. where the deceased husband's "brother", so-called, or next kinsman, was HIS FATHER)." Every one may see here how wide is the use of "brothers." The list begins with the widow's own father, and ends with her father-in-law.

It is a matter of regret and wonder alike that the late Dr. McCaul, on whose Hebrew learning Mr. Punshon and doubtless others too, relied, should have mistaken a matter so plain, and now placed within reach of English readers in the publication above referred to. "Brother then in Deut XXV. does not necessarily mean *own brother*; ar . the tradition of the Jews, for whom the law was intended, shows that they did not hold that interpretation which the moderns have strangely accepted, nor think it allowable, but on the contrary strictly repudiated it. A single quotation (7 Sect. 3 Chap. of same Treatise) shows that "nearness of kin" was an obstacle of an *indelible* character, which does not "cease". "When of three brothers (*i. e.* kinsmen), two are married to two sisters and one to a stranger; if one of them who marries the sister died, and he who had married the stranger marries the widow, and then the wife of the second brother, and also the third brother, *then the widow will be for ever prohibited to the second or surviving brother, because she was for some time prohibited to him (as his wife's sister.*")

The consequences of disregarding the general prohibition in favour of the particular Levirate enactment, may be easily worked out, but are too horrid for contemplation. That the view set out in the Mishna was that accepted by the Jews, appears from another quarter. John the Baptist's rebuke of Herod was not on the ground of adultery; for Herodias, as appears from Josephus, was now divorced from Philip; and if a brother's wife were no otherwise forbidden than as any other man's wife, it could not be unlawful, according to the Mosaic law, for Herod to marry her. But John's testimony, sealed with his blood, was against the *incest* of "having a *brothers's* wife:" "it is not lawful for thee to have her." I need not here point out all the force of the "parity of reasoning:" it will be "wonderfully" clear or very inconvenient, as the case may be.

Josephus gives us his own testimony in a similar case, to the same effect, (Antiq. B. xvii.-c.xiii). "Moreover he (Archelaus Son of Herod the Great) transgressed the law of our fathers, and married Glaphyra, the daughter of Archelaus (King of Cappadocia), who had been the wife of his brother Alexander; which Alexander had three children by her

while it was a thing detestable among the Jews to marry the brother's wife." [Alexander was dead, see Jewish War, B. ii. ch. vii, where the story is told at greater length]. These two cases are so much the stronger, because Philip and Herod Antipas were not sons of the same mother; and Alexander and Archelaus were not sons of the same father.

Thus, that very supposed exception, which was relied on to bar the intrinsic immorality of such unions, now when properly understood, —in the light of the negative testimony of Scripture and the positive testimony of the Jewish interpretation and practice, as witnessed by the Mishna, Josephus, and Philo,—is the most decided proof of the essential unlawfulness of the mixtures justified *en masse* by Mr. Punshon's principle, (vid. Ante, p. 10). even in those cases which must be preeminently regarded as "socially expedient."

In conclusion I would add a few words as to the judgment of the Church on this matter. The general sentiment of antiquity may be seen in Bingham's Antiquities, Bk. xxii. c. ii. sec. 3, where various councils expressly forbid this union with a deceased wife's sister. The xixth of the Apostolical Canons, allowed by all to be ante-Nicene, says "He who hath married two sisters, or his brother's or his sister's daughter, cannot be a clergyman." St. Basil, in the 4th century, as quoted in Bishop Wordsworth's Commentary, says: "Our custom in this matter has the force of law, because the statutes we observe have been handed down to us by holy men; and our judgment is this, that if a man has fallen into the sin of marrying two sisters, we do not regard such an union as marriage, nor do we receive the parties to communion with the Church until they are separated." Bishop Wordsworth also observes that the *Vatican Manuscript* of the Septuagiant (lately published by Cardinal Mai,) contains in the text a curse against those who lie with their wife's sister, in Deut. xxvii 23,—an important witness of the opinion of the early age in which that M S. was written.

Luther, who was certainly no "ascetic High Churchman," with all his most renowned colleagues, the Westminster Divines, and their English, Scottish, and Canadian followers to this day,—who are not thought to be either "ascetic" or "High-Church,"—have all steadfastly adhered to the Church's sense of the Bible, and in this point are at one with antiquity.

I must leave for other hands among us the discussion which the great principle involved in "they twain shall be one flesh" so amply deserves. I have the satisfaction of having done something towards clearing away the cobwebs of misconception which so conceal and befoul this question. Others still will take up the matter in its social aspects; and I have every assurance that the cause of the Bible and the Church and of the morality they espouse will come out of the conflict with added clearness and lustre; and that the good sense and the enlightened conscience of the various Christian communities of this Province, and their tender regard for the high interests of Christian morality amongst us, will disdain the petty arguments and withstand the example of such as would break down the ancient barriers of domestic purity, of whatever eloquence they may boast, or on whatever position they may rely.